

REMARKS

This application has been reviewed in light of the Office Action dated November 14, 2008. Claims 1-7, 9-16, and 18-27 are presented for examination, of which Claims 1, 10, 20 and 23 are in independent form. Claims 1, 10, 20, and 23 have been amended to define Applicants' invention more clearly. Favorable reconsideration is requested.

Claims 1-7 and 9 have been rejected under 35 U.S.C. § 101, as not falling within one of the four statutory categories of invention. Applicants have carefully reviewed and amended Claim 1 as deemed necessary to ensure that Claims 1-7 and 9 conforms fully to the requirements of Section 101, with special attention to the points raised in paragraph 6 of the Office Action. It is believed that the rejection under Section 101 has been obviated, and its withdrawal is therefore respectfully requested.

Claims 20, 22, and 23 have been rejected under 35 U.S.C. § 112, first and second paragraphs, as being single means claims and as being indefinite, respectively. Applicants have carefully reviewed and amended Claims 20 and 23 as deemed necessary to ensure that Claims 20, 22 and 23 conform fully to the requirements of Section 112, with special attention to the points raised in paragraphs 8 and 10 of the Office Action. It is believed that these rejections have been obviated, and their withdrawal is therefore respectfully requested.

Claims 1, 6, 9, 10, 15, 18, 20, 21, 23-26, and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0008897 (*Easwar*) in view of U.S. Patent No. 5,847,771 (*Cloutier et al.*); Claims 3, 4, 12, and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and further in view of U.S. Patent No. 6,671,454 (*Kaneko et al.*); Claims 5 and

14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and *Kaneko et al.*, and further in view of U.S. Patent No. 5,675,789 (*Ishii et al.*); Claims 7 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and further in view of U.S. Patent No. 6,987,890 (*Joshi et al.*); Claim 19 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and further in view of U.S. Patent No. 6,236,759 (*Horie et al.*); Claim 22 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and further in view of U.S. Patent Application Publication No. 2002/0116533 (*Holliman et al.*); Claim 27 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and further in view of U.S. Patent No. 6,721,001 (*Berstiis*); and Claims 2 and 11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Easwar* in view of *Cloutier et al.* and further in view of U.S. Patent No. 6,407,680 (*Lai et al.*).

As recited in amended Claim 1, the second coding mode includes “determining an amplitude model and a path amongst the digital data wherein the amplitude of the data along said path corresponds to said amplitude model, and coding said path.” Support for these features may be found in the specification at least at page 9, lines 9-16 and 24-27. By “determining... a path amongst the data”, the second coding mode includes constructing a path as part of the coding. By virtue of these features, the location of the k^{th} coefficient in these series is determined by the path and its amplitude is determined by the ordinate corresponding to the abscissa k according to the amplitude model. In other words, the amplitude model of Claim 1 is chosen so as to best represent the amplitude of the samples (*i.e.*, the data) along the path where a model is possibly selected because the path is not predetermined.

This is in stark contrast to the use of a pre-determined path (*i.e.*, “zig-zag” scan) described in *Easwar*, which is fixed and therefore neither determined by an amplitude model nor coded. Indeed, no such amplitude model as recited in Claim 1 is contemplated by *Easwar*. Nothing has been found in *Cloutier* that would remedy the deficiencies of *Easwar*.

Accordingly, Applicants submit that a combination of *Easwar* and *Cloutier*, assuming such combination would even be permissible, would fail to teach or suggest “determining an amplitude model and a path amongst the digital data wherein the amplitude of the data along said path corresponds to said amplitude model, and coding said path,” as recited in Claim 1.

Accordingly, Applicants submit that Claim 1 is patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a). Independent Claims 10, 20 and 23 include features similar to those discussed above with respect to Claim 1. Therefore, those claims also are believed to be patentable for at least the same reasons as discussed above.

A review of the other art of record has failed to reveal anything that, in Applicants’ opinion, would remedy the deficiencies of the art discussed above, as applied against the independent claims herein. Therefore, those claims are respectfully submitted to be patentable over the art of record.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the

invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the Commissioner is authorized to charge the requisite petition fee to Deposit Account 50-3939.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Jonathan Berschadsky/
Jonathan Berschadsky
Attorney for Applicants
Registration No.: 46,551

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCIS_WS 2671282v1